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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of:

DOCKET FILE COPY ORIGINAL

Implementation of the Non-Accounting
Safeguards of Sections 271 and 272 of
the Communications Act of 1934,
as amended

CC Docket No. 96-149

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

MCI COMMENTS ON FURTHER NOTICE OF PROPOSED RULEMAKING

I. Introduction

MCI Telecommunications Corporation hereby submits its Comments on the Further Notice of Proposed Rulemaking (Notice) in the above-captioned docket. In the Notice, the Commission seeks comment on the specific public disclosure requirements necessary to implement Section 272(e)(1) of the Communications Act (Act).

Section 272(e)(1) provides that Bell Operating Companies (BOCs) "shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates." In the Non-Accounting Safeguards Order, the Commission concluded that specific public disclosure requirements are necessary to implement this section.¹ The Commission determined that, without public disclosure of

¹In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-149, released December 24,

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the installation and maintenance intervals for services provided by the BOC to its affiliates, competitors would not have the information needed to evaluate whether the BOCs are fulfilling requests for telephone exchange service and exchange access in compliance with section 272(e)(1).²

II. Reports Should Be Provided to the Commission and on the Internet

The Commission tentatively concludes that the BOCs need not submit directly to the Commission the data that must be disclosed under Section 272(e)(1).³ Instead, the Commission tentatively concludes that the BOCs should only be required to make their Section 272 reports available to the public in one of their business offices during regular business hours. This would, however, severely limit access to the information by the Commission, the public, and the BOC affiliate's competitors. In order to facilitate convenient access to the Section 272 reports by interested parties, the BOCs should be required to post the reports on the Internet and to file them with the Commission in the same manner as ARMIS reports.

Once the BOCs have collected and assembled the data required for the Section 272 reports, the submission of this data to the Commission and the posting of this data on the Internet would impose few additional burdens and would substantially improve public

1996, at ¶242 (Non-Accounting Safeguards Order).

²Id.

³Id. at ¶370.

access. The BOCs could, for example, maintain the Section 272 reports on the same “home page” as the affiliate transaction information whose dissemination via the Internet is required by the Accounting Safeguards Order.⁴ As noted by the Commission in that context, “[t]he broad access of the Internet will increase the availability and accessibility of this information to interested parties, while imposing a minimal burden on the BOCs.”⁵

III. Format for Information Disclosure

The Commission solicits comment on a proposed report format found in Appendix C of the Non-Accounting Safeguards Order. While the proposed report format has some desirable features, it should not be adopted without considerable modification. In particular, the Section 272 report format adopted by the Commission should include all of the performance indicators shown in the MCI Ex Parte.⁶ A model Section 272 report format modified in this fashion is shown in Attachment A.

⁴In the Matter of Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, Report and Order, CC Docket No. 96-150, December 24, 1996 at ¶122 (Accounting Safeguards Order).

⁵Id.

⁶Letter from Frank W. Krogh, MCI, to William F. Caton, Secretary, FCC, November 1, 1996 (MCI Ex Parte).

A. The BOCs Should Be Required to Report Installation and Maintenance Intervals for Exchange Services

The Commission's proposed report format focuses exclusively on exchange access services. Section 272(e)(1) of the Act, however, requires the BOCs to provide both exchange and exchange access services with nondiscriminatory installation and maintenance intervals. The Commission should therefore expand the scope of the Section 272 report to encompass local exchange, as well as exchange access, installation and maintenance intervals. As shown in the MCI Ex Parte, the BOCs should be required to report the local service installation interval, additional line installation interval, custom calling installation interval, local carrier change interval, and local service repair interval.

BOC reporting of local service data is necessary to detect BOC violations of the nondiscrimination provisions of Section 272(e)(1) of the Act. In the Non-Accounting Safeguards Order, the Commission determined that the BOCs' Section 272 affiliates may resell BOC local exchange services in the same manner as an unaffiliated entity.⁷ To ensure that the BOC affiliate is not able to provide a bundled interLATA/local offering to a customer more quickly than an unaffiliated entity, interested parties must be able to detect if the BOC is providing exchange services to its affiliate in less time than it provides such services to unaffiliated carriers. As the Commission has noted, however, the information

⁷Non-Accounting Safeguards Order at ¶312.

necessary to detect such violations of the Section 272(e)(1) will be unavailable to unaffiliated entities unless a reporting requirement is imposed.⁸

B. The BOCs Should Be Required to Report Service Quality Measures

In the Non-Accounting Safeguards Order, the Commission concluded that the implementation of Section 272 required no reporting requirements other than those needed to ensure BOC compliance with Section 272(e)(1).⁹ Consistent with the narrow focus on Section 272(e)(1), the report format proposed by the Commission in Appendix C of the Non-Accounting Safeguards Order would require the BOCs to report only installation and maintenance intervals.

The Commission should broaden the scope of the BOCs' Section 272 reports to incorporate a variety of performance indicators necessary to detect other forms of discrimination prohibited by Section 272(c) and (e). In particular, the BOCs should be required to report several service quality measures. The nondiscrimination requirements of Section 272(c) and (e) clearly prohibit the BOCs from discriminating in the quality of the access services they provide. Degradation of rivals' access services is as effective an anticompetitive strategy as the use of discriminatory provisioning and maintenance intervals. Moreover, just as information about the timeliness of the BOCs' provisioning of access

⁸Non-Accounting Safeguards Order at ¶242.

⁹Id. at ¶321.

services would be unavailable to unaffiliated entities if a reporting requirement is not imposed, information about the quality of access services that the BOCs are providing to their affiliates would be unavailable if a reporting requirement is not imposed.

Finally, data about timeliness of installation is itself useless unless the services that are timely rendered to competitors are of the same quality as those rendered to the BOC's affiliate. A service provided to a competitor that is of lesser quality is per se not timely, since in that situation the competitor is not yet receiving service comparable to that provided to the BOC's affiliate. Thus, performance and quality reporting are necessary adjuncts to timeliness reports.

The Section 272 report format adopted by the Commission should incorporate the service quality measures suggested in the MCI Ex Parte and in the AT&T October 3 Ex Parte.¹⁰ The BOCs should be required to report, at a minimum, the failure frequency of local and exchange access circuits, local and exchange access service repeat troubles as a percentage of trouble reports, and the percentage of exchange access circuit failures within 30 days of installation.

C. The Report Format Should Permit Comparison of the Services Provided to Affiliated and Unaffiliated Carriers

¹⁰Letter from Charles E. Griffin, Government Affairs Regulatory Directory, AT&T, to William F. Caton, Acting Secretary, FCC, October 3, 1996, at 3-5 (AT&T October 3 Ex Parte).

The Commission's proposed report format would require the BOCs to report installation and maintenance intervals for services provided to their affiliates, but not for services provided to unaffiliated carriers. The BOCs should, however, be required to report on the installation and maintenance intervals for services provided to unaffiliated carriers in the aggregate. While it is true that the reporting of aggregate data for unaffiliated entities can obscure discrimination targeted against key rivals, aggregate data can provide a ready means for the Commission and other interested parties to monitor BOC compliance with the nondiscrimination provisions of Section 272(c) and (e). These considerations led the Commission to adopt such a comparative format for ONA reporting. Requiring the BOCs to collect data for services provided to unaffiliated entities would not be unduly burdensome, as the BOCs are already required to collect most of the data required for Section 272 reports for the ARMIS 43-05 report. Both Ameritech and PacTel have indicated that they would not oppose the reporting of aggregate data for unaffiliated carriers.¹¹

The Commission should also, as AT&T and TCG have argued, require the BOCs to provide each unaffiliated carrier with quarterly reports comparing the services provided to that carrier with the services provided to the BOC's affiliates. Because the unaffiliated carrier would still be likely to measure the services received from the BOC, BOC reporting of this data would enable unaffiliated carriers to verify the BOC's data collection methods and

¹¹Letter from Gary L. Phillips, Director of Legal Affairs, Ameritech, to William F. Caton, FCC, October 23, 1996, attachment; Letter from Gina Harrison, Pacific Telesis, to William F. Caton, FCC, October 18, 1996, Attachment 6.

would thereby serve as a check on at least the aggregate unaffiliated carrier data reported to the Commission by the BOC.¹² Moreover, to the extent the BOC-reported data revealed differences between the services provided to affiliated and unaffiliated carriers, the BOCs could not argue that the apparent discrimination was an artifact of different data collection methodologies.

D. Due Dates Should Be Reported

The Commission proposes to require the BOCs to report installation intervals according to three measures: “time to firm order confirmation,” “successful completion according to desired due date,” and “time from BOC promised due date to circuit placed in service.” The “time to firm order confirmation” and “time from promised due date to circuit placed in service” parameter would be measured in terms of the percentage installed within successive 24-hour periods until 95 percent of circuits were installed. While MCI supports the use of this unit of measure, the Commission should also require the BOCs to report the average time to firm order confirmation and average time from promised due date to circuit placed in service. Averages provide a necessary complement to the interval measures proposed by the Commission. For example, if the data for the BOC affiliate’s requests shows that 20 percent are one day overdue and 20 percent are two days overdue, whereas data for unaffiliated carriers shows that 30 percent of requests are one day overdue and 20 percent are

¹²AT&T October 3 Ex Parte at 6.

two days overdue, this is useful primarily as a means for understanding the pattern of delay underlying a longer average delay for services provided to unaffiliated carriers.¹³

The Commission should require the BOCs to report additional installation interval parameters. In particular, the BOCs should be required to report the standard due date promised to affiliated and unaffiliated carriers, measured in days from the date of the request. The BOCs should also be required to report the percentage of requests for intervals shorter than the standard interval that it was able to satisfy, and the average interval for these requests. These measures would, to a certain extent, reveal whether the BOC routinely responded to high-priority requests from its affiliate but not from unaffiliated carriers. Fulfillment of high-priority requests is often the most significant factor in interexchange carriers' ability to be responsive to their customers.

In addition, the BOCs should be required to report the average installation interval from time of request to installation, as suggested in the MCI Ex Parte and PacTel's October 18 ex parte letter. This parameter, measured in days from the date of request, would provide a simple means for comparing access services provided to affiliated and unaffiliated carriers.

IV. Data Should Be Updated Quarterly and Reported for Each BOC

The BOCs should be required to update information on a quarterly basis. Quarterly reporting will allow monitoring of BOC behavior and should not be unduly burdensome.

¹³Similarly, the BOCs should be required to report the average PIC change interval.

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Until the passage of the Telecommunications Act of 1995 the BOCs were required to submit quarterly ARMIS 43-05 service quality reports that incorporated much of the same data that would be supplied in the Section 272 reports. The Commission should require the Section 272 reports to be updated by the end of the following quarter, as was the case with quarterly ARMIS reports.

The BOCs should be required to file their Section 272 reports on a state-by-state basis. State-by-state reporting is appropriate given that interLATA authority will be granted on a state-by-state basis. Moreover, some states represent more significant markets than others, and reporting on a state-by-state basis prevents significant variations from being obscured by averaging across the RBOC region.

V. Conclusion

MCI requests that the Commission promulgate regulations implementing Section 272(c) and (e) of the Communications Act that are consistent with the above comments.

Respectfully submitted,
MCI TELECOMMUNICATIONS CORPORATION



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February 19, 1997

Attachment A: Proposed Section 272 Reporting Format

Installation and Repair Intervals Access Services

Service Category	Access Category	Provided to itself	Provided to affiliates	Unaffiliated Carriers
1) Average Installation Interval (in days)	DS3+ DS1 DS0 VGPL			
2) Successful Completion According to Desired due Date (percentage)	DS3 + DS1 DS0 VGPL			
3a) Standard BOC promised due date (in days)	DS3+ DS1 DS0 VGPL			
3b) Percentage of requests for intervals shorter than the standard interval that are satisfied	DS3+ DS1 DS0 VGPL			
3c) Average interval for circuits installed in advance of the standard due date (in days)	DS3+ DS1 DS0 VGPL			
4a) Time from BOC Promised Due Date to Circuit placed in service (Percent installed w/in 24 hr. per. until 95% installed)	DS3+ DS1 DS0 VGPL			
4b) Average time from BOC promised due date to circuit placed in service (in days)	DS3+ DS1 DS0 VGPL			

5a) Time to firm order confirmation (percent installed w/in 24 hr. period until 95% installed)	DS3+ DS1 DS0 VGPL			
5b) Average time to firm order confirmation (in days)	DS3+ DS1 DS0 VGPL			
6a) Time from PIC Change request to implementation (percentage implemented within each successive 6 hour period)				
6b) Average time from PIC change request to implementation				
6c) PIC Change Reject Rate				
7a) Time to restore and trouble duration (percentage restored within each successive 1 hour interval, until 95% resolved)	DS3+ DS1 DS0 VGPL			
7b) Mean time to restore	DS3+ DS1 DS0 VGPL			
8a) Time to restore PIC after trouble incident (percentage restored within each successive 1 hour interval, until 95% resolved)				
8b) Average time to restore PIC after trouble incident				

Installation and Repair Intervals
Local Service

Service Category	Provided to itself	Provided to affiliates	Unaffiliated Carriers
1) Average Local Service Installation Interval (in days)			
2) Average Additional Line Installation Interval (in days)			
3) Average Custom Calling Installation Interval (in days)			
4) Average Local Carrier Change Interval (in days)			
5) Average Local Service Repair Interval (in days)			

Service Quality

Service Category	Access Category	Provided to itself	Provided to affiliates	Unaffiliated Carriers
1) Local service failure frequency				
2) Local service repeat trouble reports as a percentage of initial trouble reports				
3) Access circuit failure frequency	DS3+ DS1 DS0 VGPL			
4) Percentage of access circuit failures within 30 days of install	DS3+ DS1 DS0 VGPL			

5) Access circuit repeat failure percentage	DS3+ DS1 DS0 VGPL			
6) Percentage of access trunk groups exceeding an industry standard for blocking				
7) Number of reports of exchange access busy hour blocking				

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on February 19, 1997.

A handwritten signature in black ink, appearing to read "Alan Buzacott", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I, Sylvia Chukwuocha, do hereby certify that a true copy of the foregoing "COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION" was served this 19th day of February, 1997, by hand-delivery or first-class mail, postage prepaid, upon each of the following persons:

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